

By Bill Keese

2 B. No. 2063

A BILL TO BE ENTITLED

AN ACT

relating to certain transactions exempt from regulation as auctions;
amending Section 2, Chapter 320, Acts of the 64th Legislature, 1975
(Article 8700, Vernon's Texas Civil Statutes).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Section 2, Chapter 320, Acts of the 64th Legislature,
1975 (Article 8700, Vernon's Texas Civil Statutes), is amended to read
as follows:

"Section 2. EXEMPT TRANSACTIONS. The provisions of this Act
shall not apply to the following transactions:

"(1) a sale conducted by order of any United States court
pursuant to Title 11 of the United States Code relating to bankruptcy;

"(2) a sale conducted by an employee of the United States or the
State of Texas or its political subdivisions in the course and scope of
his employment;

"(3) a sale conducted by a charitable or nonprofit organization;

"(4) a sale conducted by an individual of his own property if such
individual is not engaged in the business of selling such property as an
auctioneer on a regular basis;

"(5) a foreclosure sale of realty conducted personally by a
trustee under a recorded deed or trust;

"(6) a foreclosure sale of personal property conducted personally
by the mortgagee or other secured party or an employee of such mortgagee
or other secured party acting in the course and scope of his employment,
under a recorded chattel mortgage or other security agreement; [or]

"(7) a sale conducted by sealed bid [-];

"(8) an auction conducted by any posted stockyard or market

1 agency as defined by Packers and Stockyard Act, 1921, as amended and
2 supplemented (7 U.S.C., Section 181 et seq.), to mean any person or
3 person's employee or person's agent engaged in the business of buying
4 or selling livestock in commerce on commission basis for the account
5 of others or furnishing stockyard services;

6 "(9) an auction of livestock conducted by a nonprofit livestock
7 trade association chartered in Texas and where the auction involves only
8 the sale of trade association members' livestock; or

9 "(10) an auction conducted by a nonprofit association chartered
10 in Texas where the auction involves only the property of the nonprofit
11 association members and the auction is a part of a fair that is organized
12 under state, county, or municipal authority."

13 Section 2. The importance of this legislation and the crowded
14 condition of the calendars in both houses create an emergency and an
15 imperative public necessity that the constitutional rule requiring bills
16 to be read on three several days in each house be suspended, and this
17 rule is hereby suspended, and that this Act take effect and be in force
18 from and after its passage, and it is so enacted.

COMMITTEE REPORT

The Honorable Bill Clayton
Speaker of the House of Representatives

April 13, 1977
(date)

Sir:

We, your COMMITTEE ON AGRICULTURE & LIVESTOCK, to whom was referred H.B. 2063,
have had the same under consideration and beg to report back with the recommendation that it (measure)

- (X) do pass, without amendment.
- () do pass, with amendment(s).
- () do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested on March 18, 1977 and is attached as part of this report.
(date)

~~Author's fiscal statement attached.~~

The Committee recommends that this measure be placed on the (~~Local~~ / Consent) Calendar.

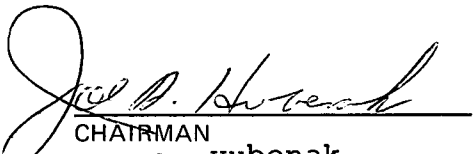

This measure () proposes new law.
(X) amends existing law.

House Sponsor of Senate Measure _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Hubenak	X			
Kubiak				X
Green, F.	X			
Coody				X
Denton				X
Garcia, T.				X
Jones	X			
Keese	X			
McBee	X			
Martin, E.	X			
Patterson	X			

Total:
7 aye
0 nay
0 present, not voting
4 absent


CHAIRMAN
Joe A. Hubenak

COMMITTEE COORDINATOR
Jim Reynolds

Measure No. 2063
By: Keese

Committee on Agriculture
and Livestock

Bill Analysis

Background Information

Presently livestock auctioneers are under regulation by both state and federal agencies. Supposably, last session, when the auctioneering bill was passed, livestock auctioneers were to be exluded because they come under federal supervision.

Purpose

Exclude livestock auctioneers from the state auctioneering regulations.

Section by Section Analysis

Section 1: Under Section 2, Chapter 320, Acts of 64th Legislature, amends the exempt transactions to include the following:

- a) Auctions conducted by any posted stockyard or market agency as defined by the Packers and Stockyard Act.
- b) Auctions of livestock conducted by a non-profit livestock trade association in Texas.
- c) Auctions by non-profit associations chartered in Texas.

Section 2: Emergency Clause.

Summary of Committee Action

Public notice having been posted in compliance with Rule V, Section 14, the committee considered H.B. 2063 in public hearing on April 13, 1977

In a public hearing on April 13, 1977 the committee reported the bill back the the Floor of the House by a Vote of 7 ayes, 0 nays, 4 absent with the recommendation that it be placed on the Consent Calendar.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 7, 1977

Honorable Joe A. Hubenak, Chairman
Committee on Agriculture and Livestock
House of Representatives
Austin, Texas

In Re: House Bill No. 2063
By: Keese

Sir:

In response to your request pursuant to House Rule V, Section 28, this office finds the fiscal implications of House Bill No. 2063 (relating to certain transactions exempt from regulation as auctions) to be as follows:


The bill would make no appropriation but would constitute prior legislative authorization for an appropriative request.

The probable revenue loss from implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Loss to the General Revenue Fund</u>
1978	\$ 2,800
1979	2,800
1980	2,800
1981	2,800
1982	2,800

Similar annual revenue losses would continue as long as the provisions of the bill are in effect.

No additional cost to the State attributable to the bill, should it be enacted, is anticipated.


Thomas M. Keel
Director

HOUSE ENGROSSMENT

2nd. Printing

By Keese

H.B. No. 2063

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"(3) a sale conducted by a charitable or nonprofit organization;

"(4) a sale conducted by an individual of his own property if such individual is not engaged in the business of selling such property as an auctioneer on a regular basis;

"(5) a foreclosure sale of realty conducted personally by a trustee under a recorded deed of trust;

"(6) a foreclosure sale of personal property conducted

personally by the mortgagee or other secured party or an employee of such mortgagee or other secured party acting in the course and scope of his employment, under a recorded chattel mortgage or other security agreement; [or]

"(7) a sale conducted by sealed bid; [or]

"(8) an auction conducted by any posted stockyard or market agency as defined by Packers and Stockyard Act, 1921, as amended and supplemented (7 U.S.C., Section 181 et seq.), to mean any person or person's employee or person's agent engaged in the business of buying or selling livestock in commerce on commission basis for the account of others or furnishing stockyard services;

"(9) an auction of livestock conducted by a nonprofit livestock trade association chartered in Texas and where the auction involves only the sale of trade association members' livestock; or

"(10) an auction conducted by a nonprofit association chartered in Texas where the auction involves only the property of the nonprofit association members and the auction is a part of a fair that is organized under state, county, or municipal authority."

Sec. 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

-END-

By: Keese

H.R. No. 2063

(In the Senate - Received from the House May 16, 1977; May 17, 1977, read first time and referred to Committee on Economic Development; May 23, 1977, reported favorably; May 23, 1977, sent to printer.)

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* * * * *

Austin, Texas
May 23, 1977

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on Economic Development, to which was referred H.B. No. 2063, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

Creighton, Chairman

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 7, 1977

Honorable Joe A. Hubenak, Chairman
Committee on Agriculture and Livestock
House of Representatives
Austin, Texas

In Re: House Bill No. 2063
By: Keese

Sir:

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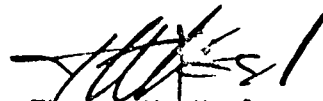
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The probable revenue loss from implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Loss to the General Revenue Fund</u>
1978	\$ 2,800
1979	2,800
1980	2,800
1981	2,800
1982	2,800

Similar annual revenue losses would continue as long as the provisions of the bill are in effect.

No additional cost to the State attributable to the bill, should it be enacted, is anticipated.


Thomas M. Keel
Director

Source: Department of Labor and Standards; LBB Staff

H. B. No. 2063

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(Article 8700, Vernon's Texas Civil Statutes).

MAR 11 1977

1. Filed with the Chief Clerk.

MAR 17 1977

2. Read first time and referred to Committee on Agriculture & Livestock

APR 13 1977

3. Reported favorably ~~unfavorably~~ ~~(as amended)~~ and sent to Printer at 11:10 A.M.
(time)

APR 14 1977

4. Printed, distributed and sent to the Committee on Calendars at 2:41 P.M.
(time)

APR 14 1977

APR 14 1977

MAY 13 1977

Sent To Committee On Calendars 3:16 pm
5. Read second time ~~(amended)~~; passed to third reading ~~(failed)~~ by (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).

6. Motion to reconsider and table the vote by which H.B. _____ was ordered engrossed prevailed (failed) by a (Non-record vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

7. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ yeas, _____ nays, and _____ present, not voting.

MAY 13 1977

8. Read third time ~~(amended)~~; finally passed ~~(failed)~~ by (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).

9. Caption ordered amended to conform to body of bill.

10. Motion to reconsider and table the vote by which H.B. _____ was finally passed prevailed (failed) by a (Non-record) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

MAY 13 1977

11. Ordered Engrossed at 2:15 P.M.
(time)

MAY 13 1977

12. Engrossed.

MAY 13 1977

13. Returned to Chief Clerk at 9:35 : P M.
(time)

MAY 16 1977

14. Sent to Senate.

Betty Murray
Chief Clerk of the House

MAY 16 1977

15. Received from the House _____

MAY 17 1977

16. Read, referred to Committee on ECONOMIC DEVELOPMENT

MAY 23 1977

17. Reported favorably _____

MAY 25 1977 - Laid on Table

18. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

19. Ordered not printed.

20. Regular order of business suspended by _____
(a viva voce vote.)
(_____ yeas, _____ nays.)

_____ 21. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

_____ 22. Read second time _____ passed to third reading by:
(a viva voce vote.)
(_____ yeas, _____ nays.)

_____ 23. Caption ordered amended to conform to body of bill.

_____ 24. Senate and Constitutional 3-Day Rules suspended by vote of _____ yeas,
_____ nays to place bill on third reading and final passage.

_____ 25. Read third time and passed by
(a viva voce vote.)
(_____ yeas, _____ nays.)

OTHER ACTION: OTHER ACTION:

Secretary of the Senate

_____ 26. Returned to the House.

_____ 27. Received from the Senate (with amendments).

_____ 28. House (Concurred) (Refused to Concur) in Senate Amendments by a (Non-record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).

_____ 29. Conference Committee Ordered.

_____ 30. Conference Committee Report Adopted (Rejected) by a (Non-record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

_____ 31. Ordered Enrolled at _____ : _____ M.
(time)

1977 MAY 13 PM 9:35
HOUSE OF REPRESENTATIVES

1977 APR 14 PM 2:41
HOUSE OF REPRESENTATIVES